

# An Overview of the Ralph M. Brown Act



Presented to San Bernardino County  
Department of Behavioral Health

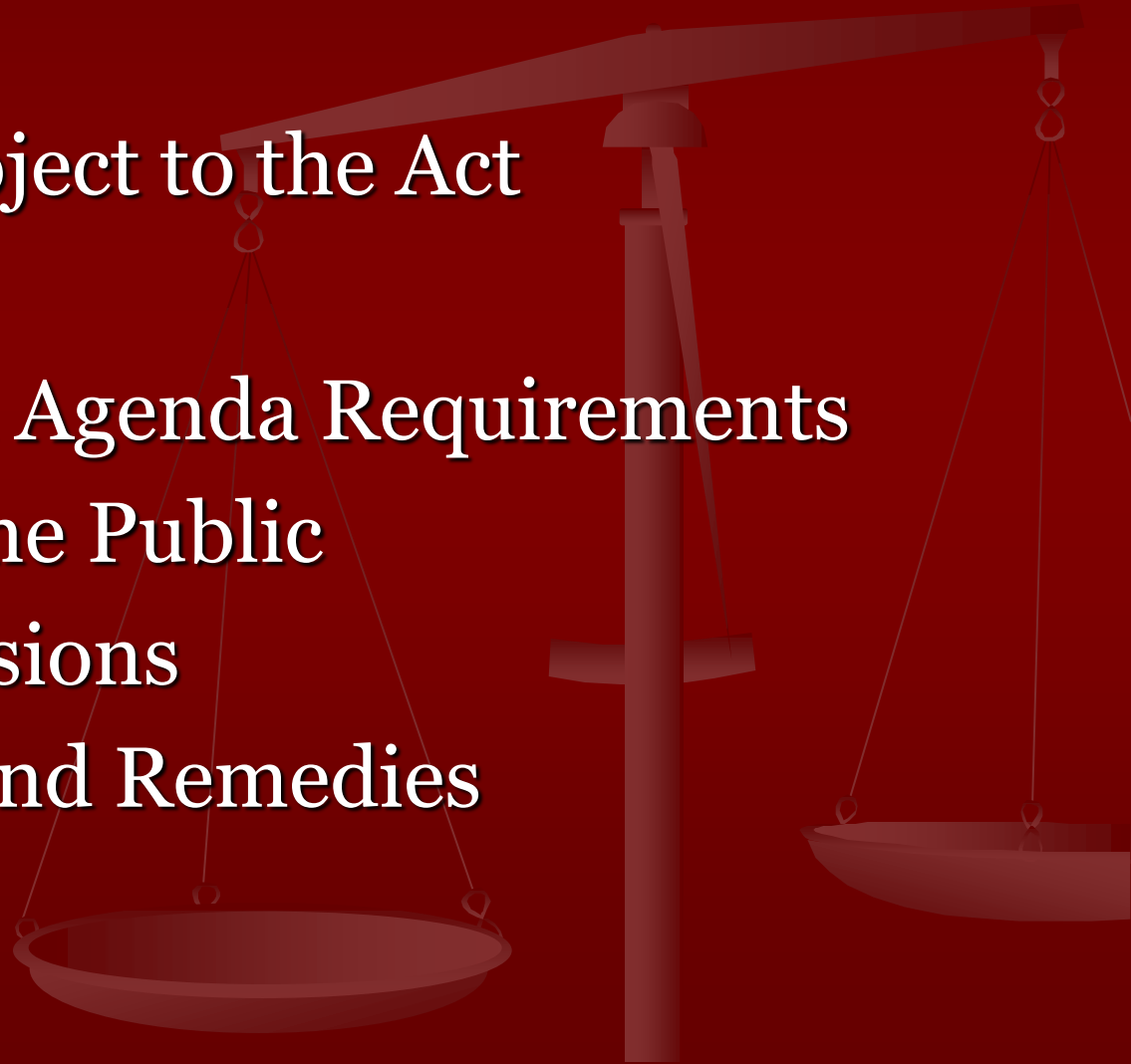
September 1, 2011



Ralph M. Brown 1959

# Outline

- Purpose
- Bodies Subject to the Act
- Meetings
- Notice and Agenda Requirements
- Rights of the Public
- Closed Sessions
- Penalties and Remedies



# Part 1

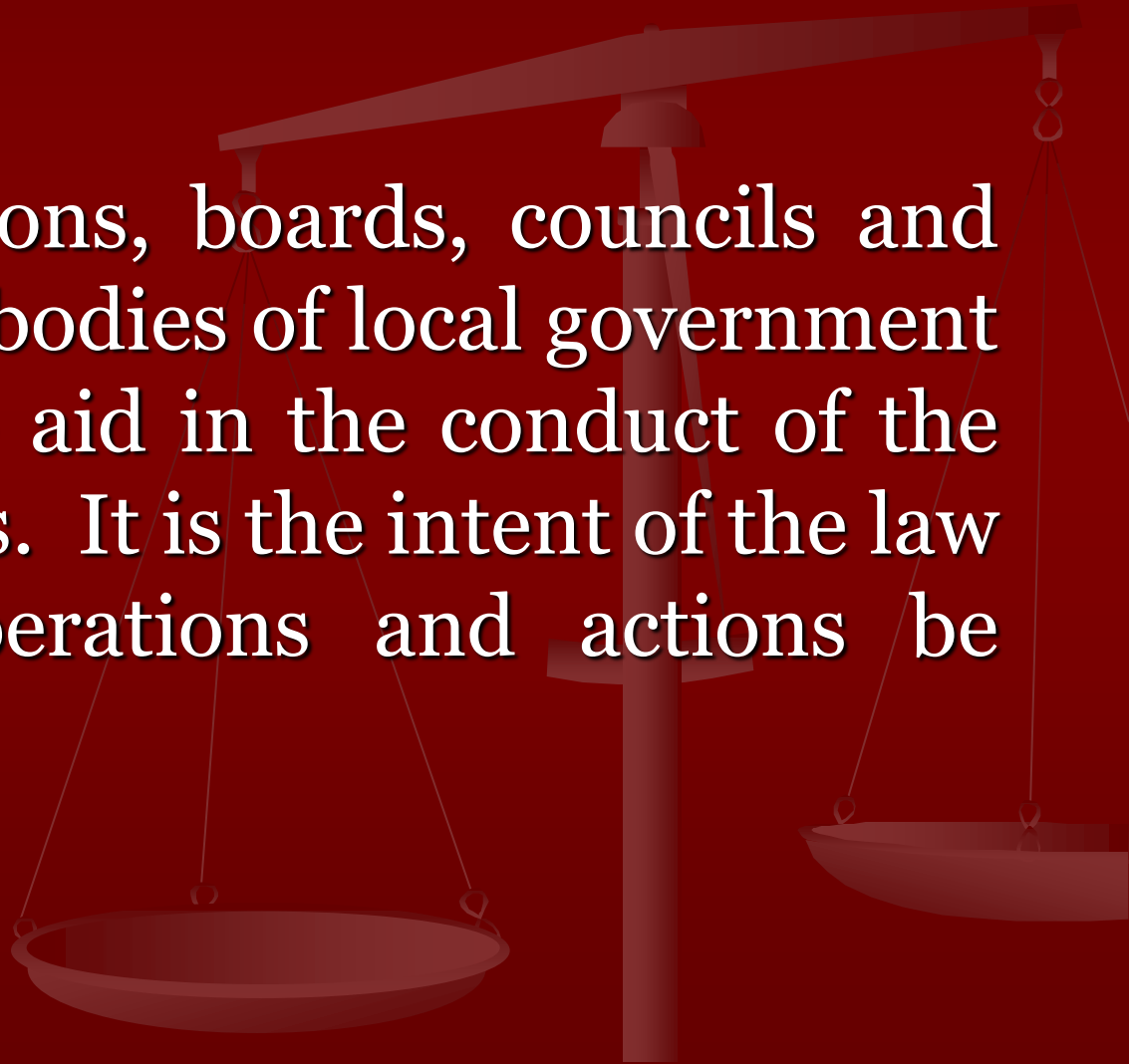
# Purpose





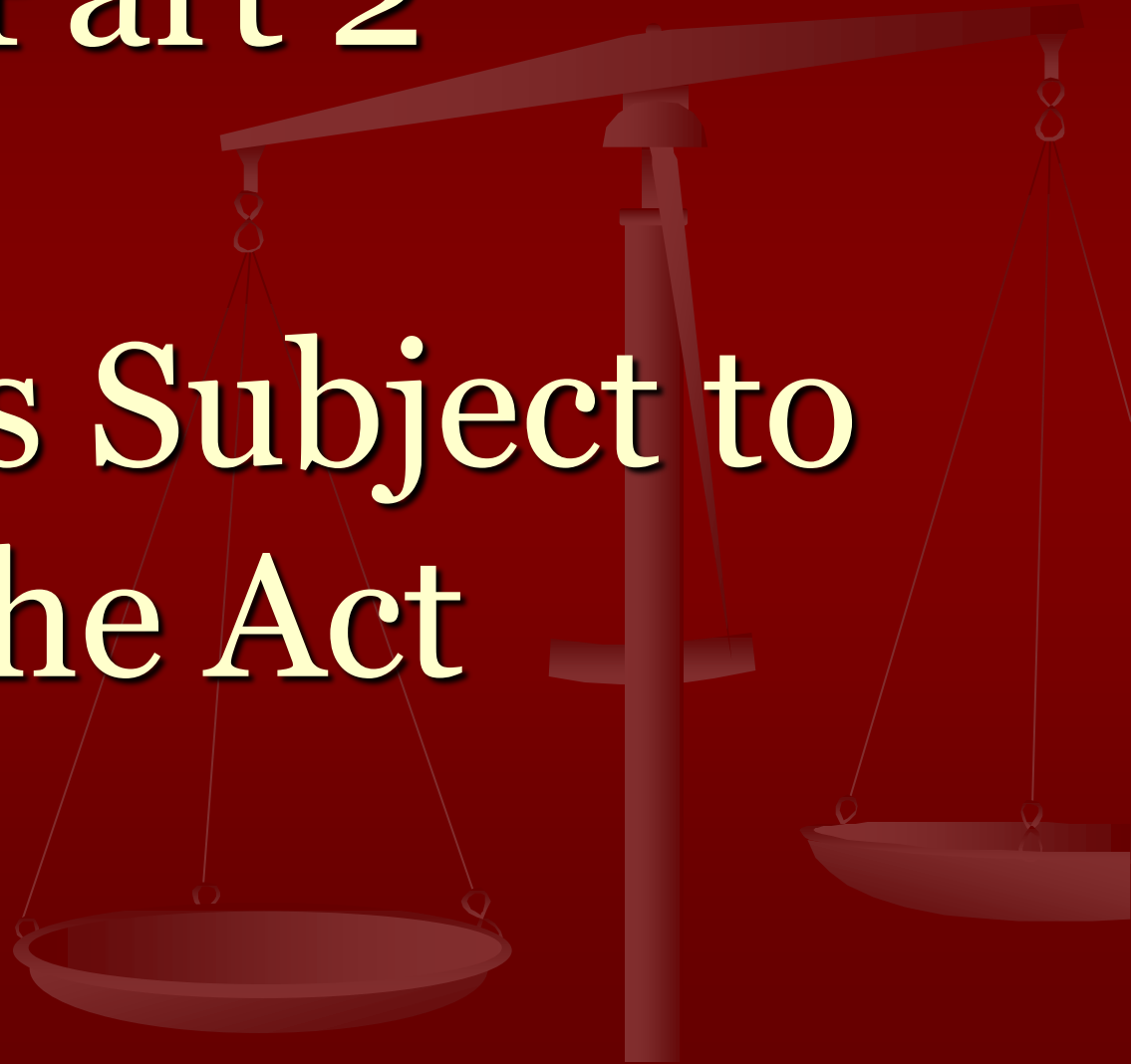
# Purpose

Public commissions, boards, councils and other legislative bodies of local government agencies exist to aid in the conduct of the people's business. It is the intent of the law that their deliberations and actions be taken openly.



# Part 2

## Bodies Subject to the Act



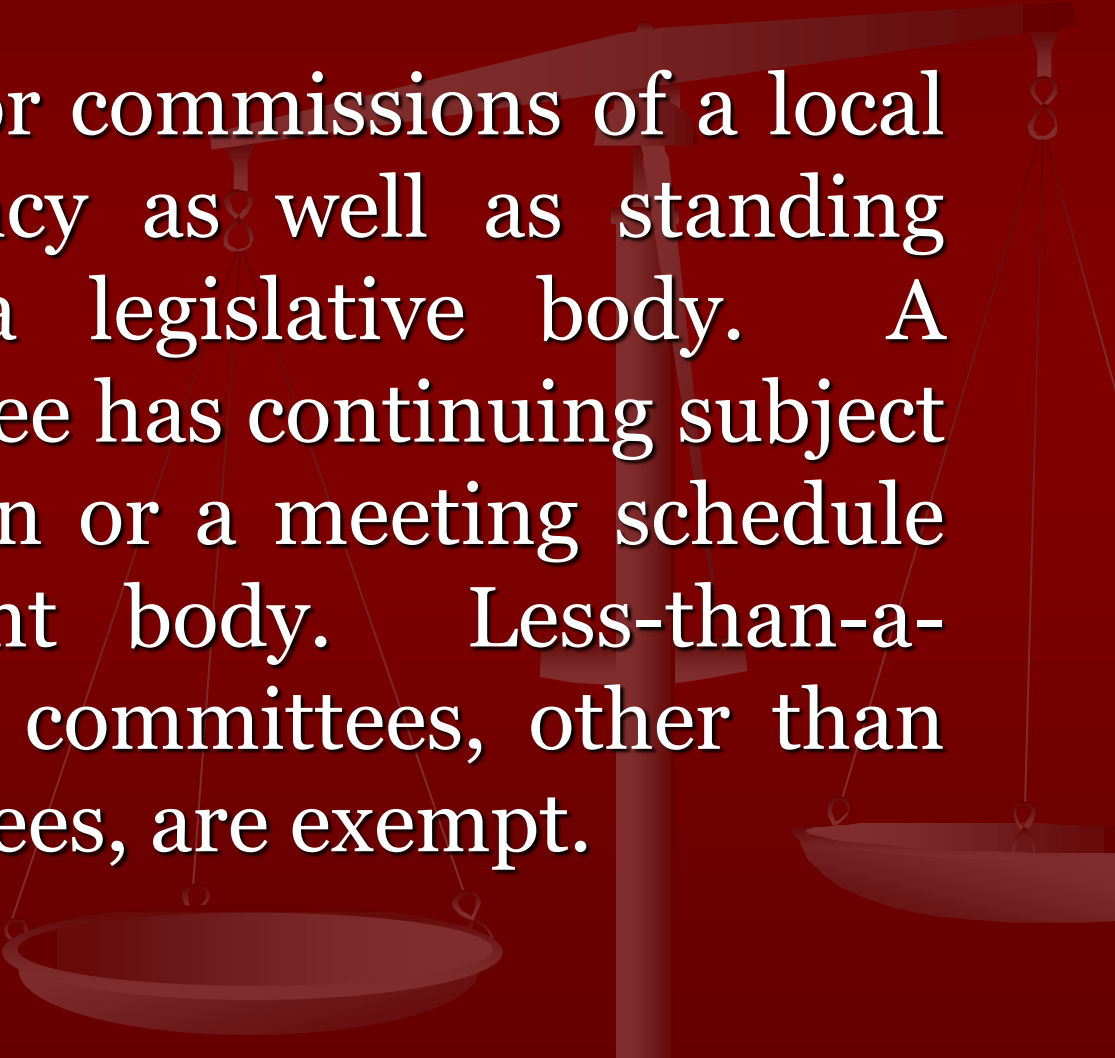
# Governing Bodies

Includes city councils, boards of supervisors, and district boards. Also covered are other legislative bodies of local government agencies created by state or federal law.



# Subsidiary Bodies

Includes boards or commissions of a local government agency as well as standing committees of a legislative body. A standing committee has continuing subject matter jurisdiction or a meeting schedule set by its parent body. Less-than-a-quorum advisory committees, other than standing committees, are exempt.



# Private or Nonprofit Corporations or Entities

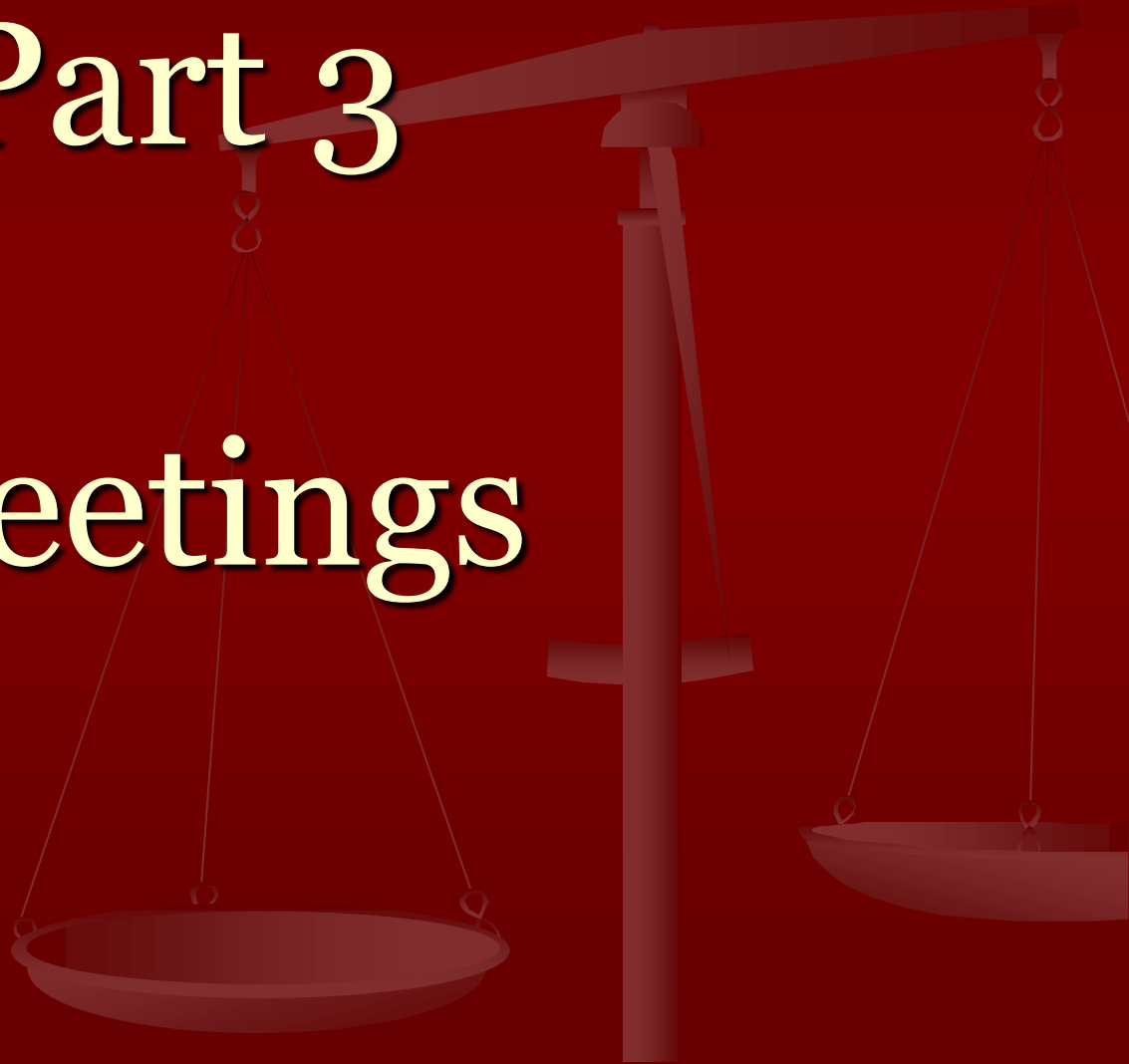


Covered only if:

- a. A legislative body delegates some of its functions to a private corporation or entity; or
- b. If a legislative body provides some funding to a private corporation or entity and appoints one of its members to serve as a voting member of entity's board of directors.

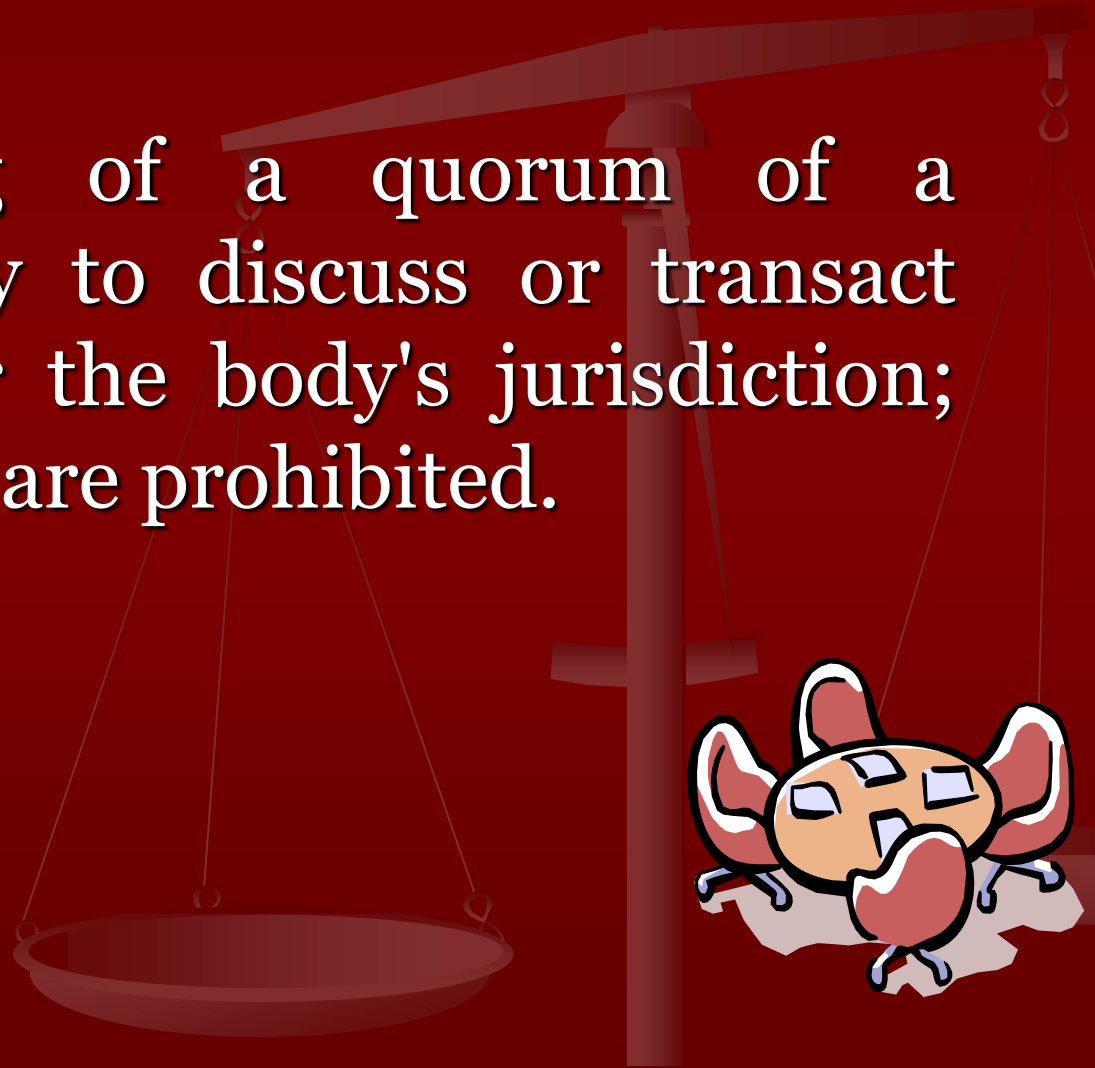
# Part 3

## Meetings

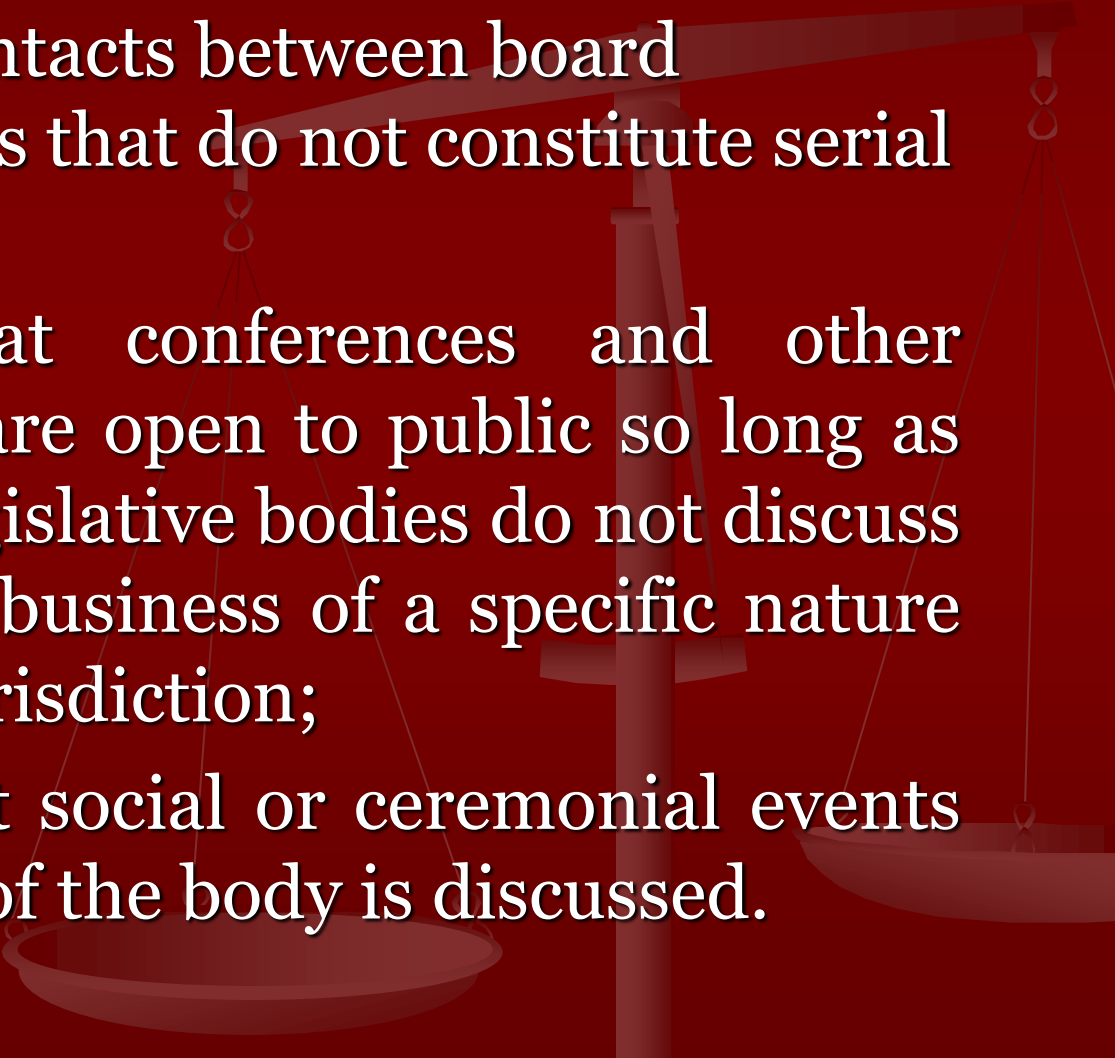


# Meeting Defined

Any gathering of a quorum of a legislative body to discuss or transact business under the body's jurisdiction; serial meetings are prohibited.



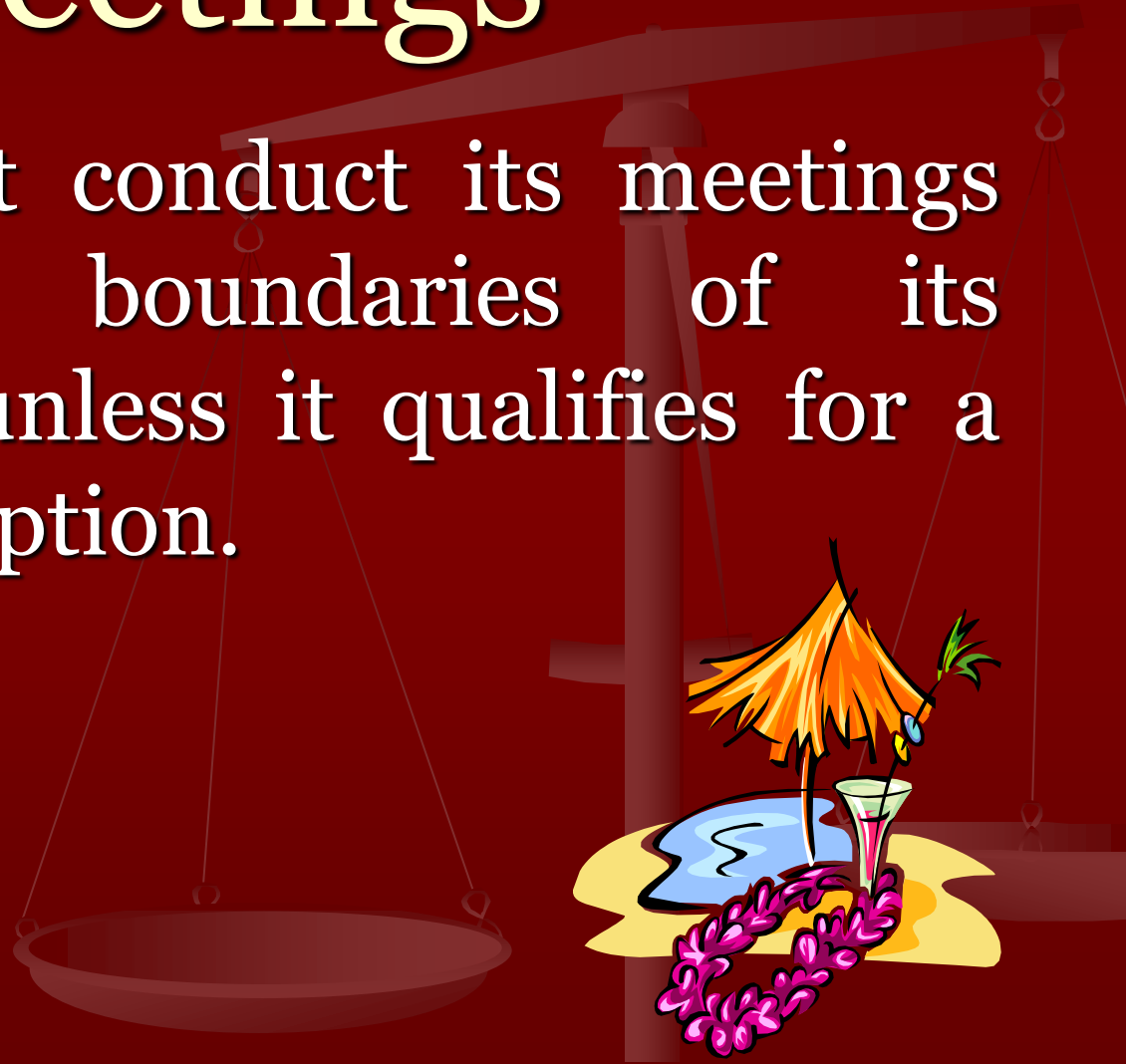
# Exceptions

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- (1) Individual contacts between board members and others that do not constitute serial meetings;
  - (2) Attendance at conferences and other gatherings, which are open to public so long as members of and legislative bodies do not discuss among themselves business of a specific nature under the body's jurisdiction;
  - (3) Attendance at social or ceremonial events where no business of the body is discussed.



# Locations of Meetings

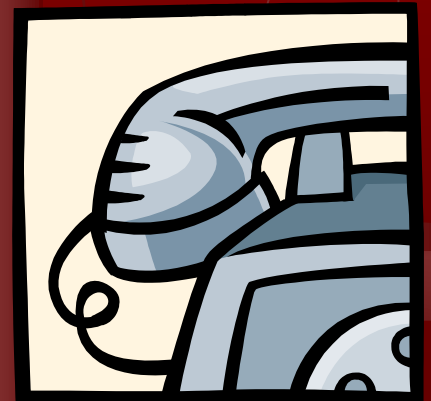
A body must conduct its meetings within the boundaries of its jurisdiction unless it qualifies for a specific exemption.



# Serial Meetings

The Act prohibits “serial meetings,” those conducted for the purpose of developing concurrence for an action to be taken.

Example: A calls B and C, who call D, E, F & G to form a consensus.



# Teleconference Meetings

Teleconference meetings may be held under carefully defined conditions. The meeting notice must specifically identify all teleconference locations, and each such location must be fully accessible to members of the public.



# E-mail

In 2001 the CA Attorney General issued an opinion regarding the use of email.  
(Opinion #00-906, 2001)

**Conclusion:** A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board.



# Part 4

## Notice and Agenda Requirements



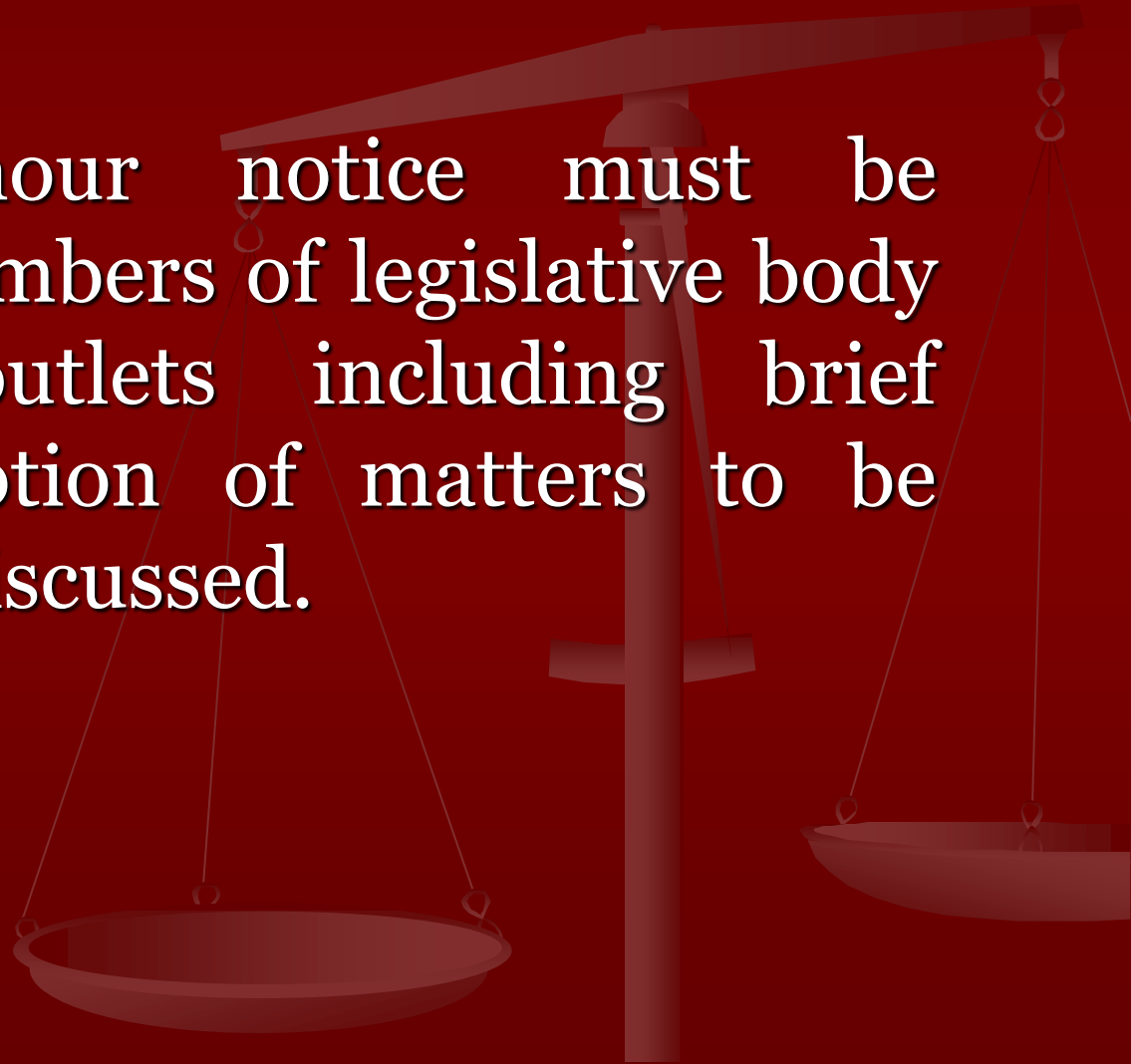
# Regular Meetings

Agenda containing brief general description (approximately twenty words in length) of each matter to be considered or discussed must be posted at least 72 hours prior to meeting.



# Special Meetings

Twenty-four hour notice must be provided to members of legislative body and media outlets including brief general description of matters to be considered or discussed.



# Emergency Meetings

One hour notice in case of work stoppage or crippling activity, except in the case of a dire emergency.





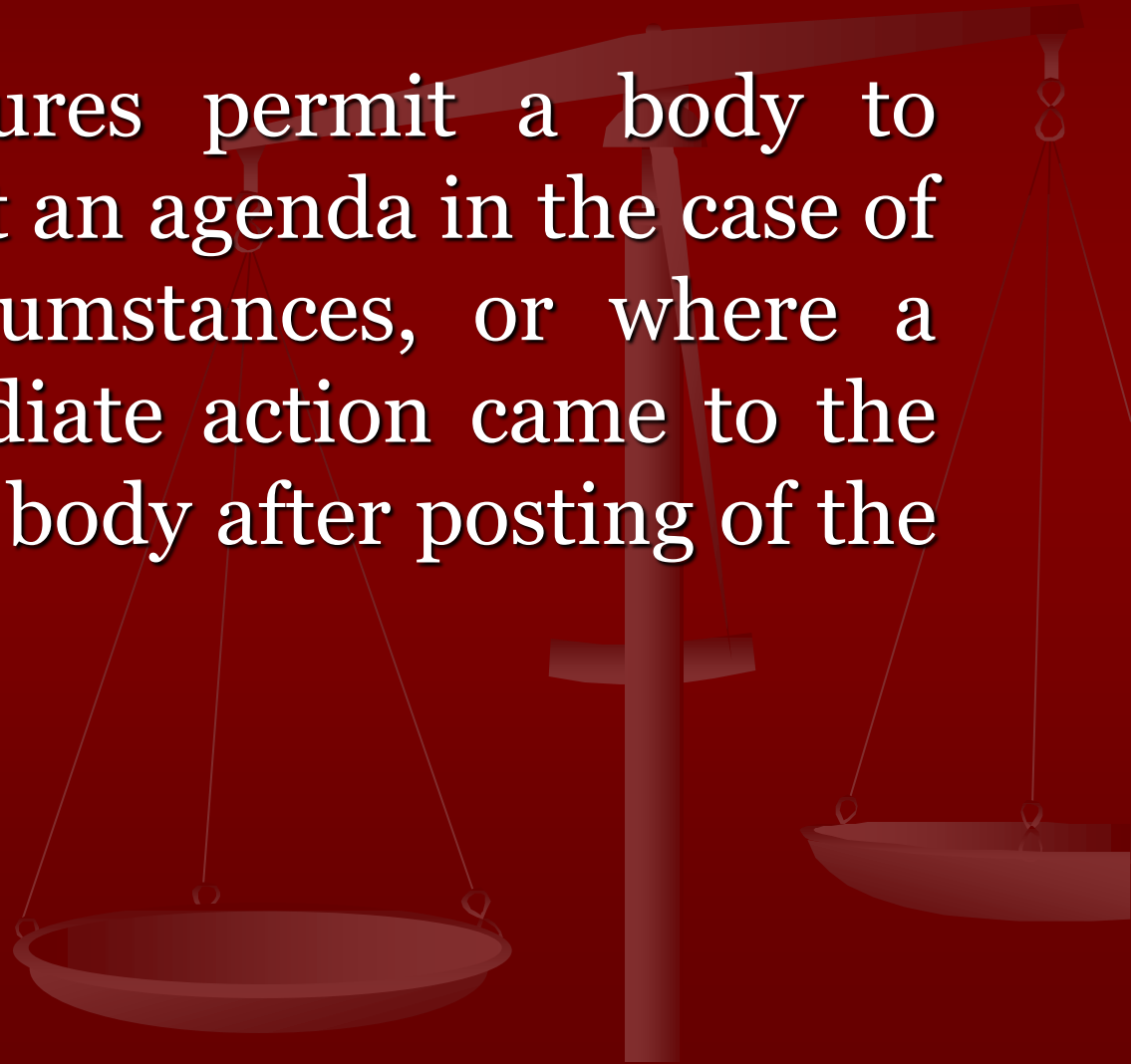
# Closed Session Agendas

All items to be considered in closed session must be described in the notice or agenda for the meeting. If final action is taken in closed session, the body generally must report the action at the conclusion of the closed session.



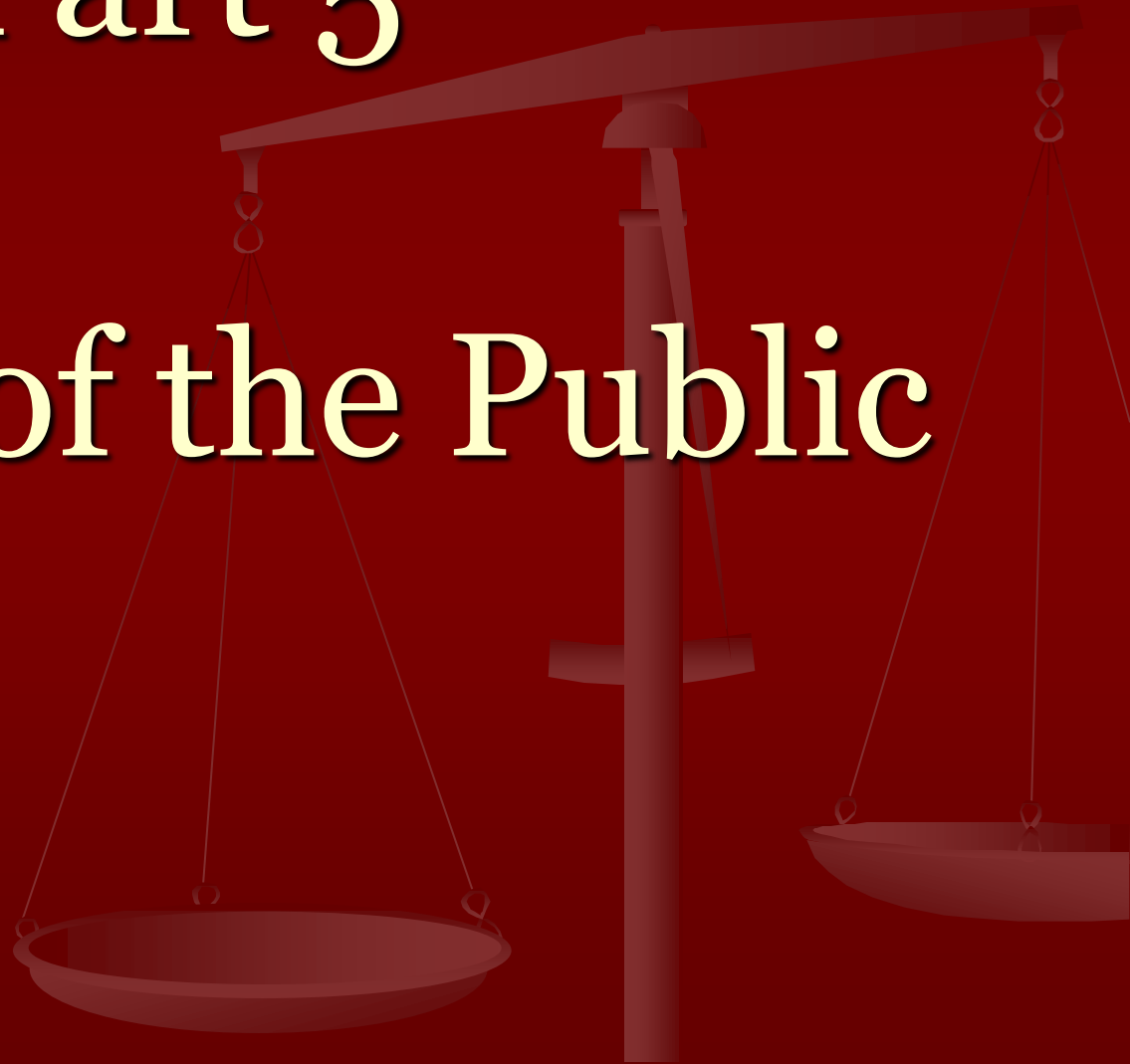
# Agenda Exception

Special procedures permit a body to proceed without an agenda in the case of emergency circumstances, or where a need for immediate action came to the attention of the body after posting of the agenda.



# Part 5

## Rights of the Public



# Public Testimony

Public may comment on agenda items before or during consideration by legislative body. Time must be set aside for public to comment on any other matters under the body's jurisdiction.



# Non-discriminatory Facilities

Meetings may not be conducted in a facility that excludes persons on the basis of their race, religion, color, national origin, ancestry, or sex, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase.



# Copy Of Recording

Public may obtain a copy, at cost, of an existing tape recording made by the legislative body of its public sessions, and to listen to or view the body's original tape on a tape recorder or viewing device provided by the agency.



# Public Vote

All votes, except for those cast in permissible closed session, must be cast in public. No secret ballots, whether preliminary or final, are permitted.



# Closed Meeting Actions/Documents

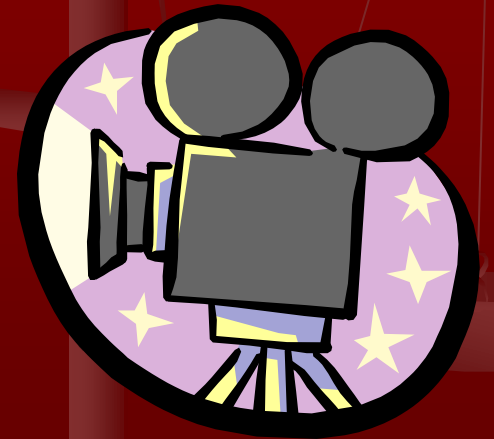
At an open session following a closed session, the body must report on final action taken in closed session under specified circumstances. Where final action is taken with respect to contracts, settlement agreements and other specified records, the public may receive copies of such records upon request.





# Taping or Broadcasting

Meetings may be broadcast, audio-recorded or video-recorded, so long as the activity does not constitute a disruption of the proceeding.



# Public Records

Materials provided to a majority of a body which are not exempt from disclosure under the Public Records Act must be provided, upon request, to members of the public without delay.



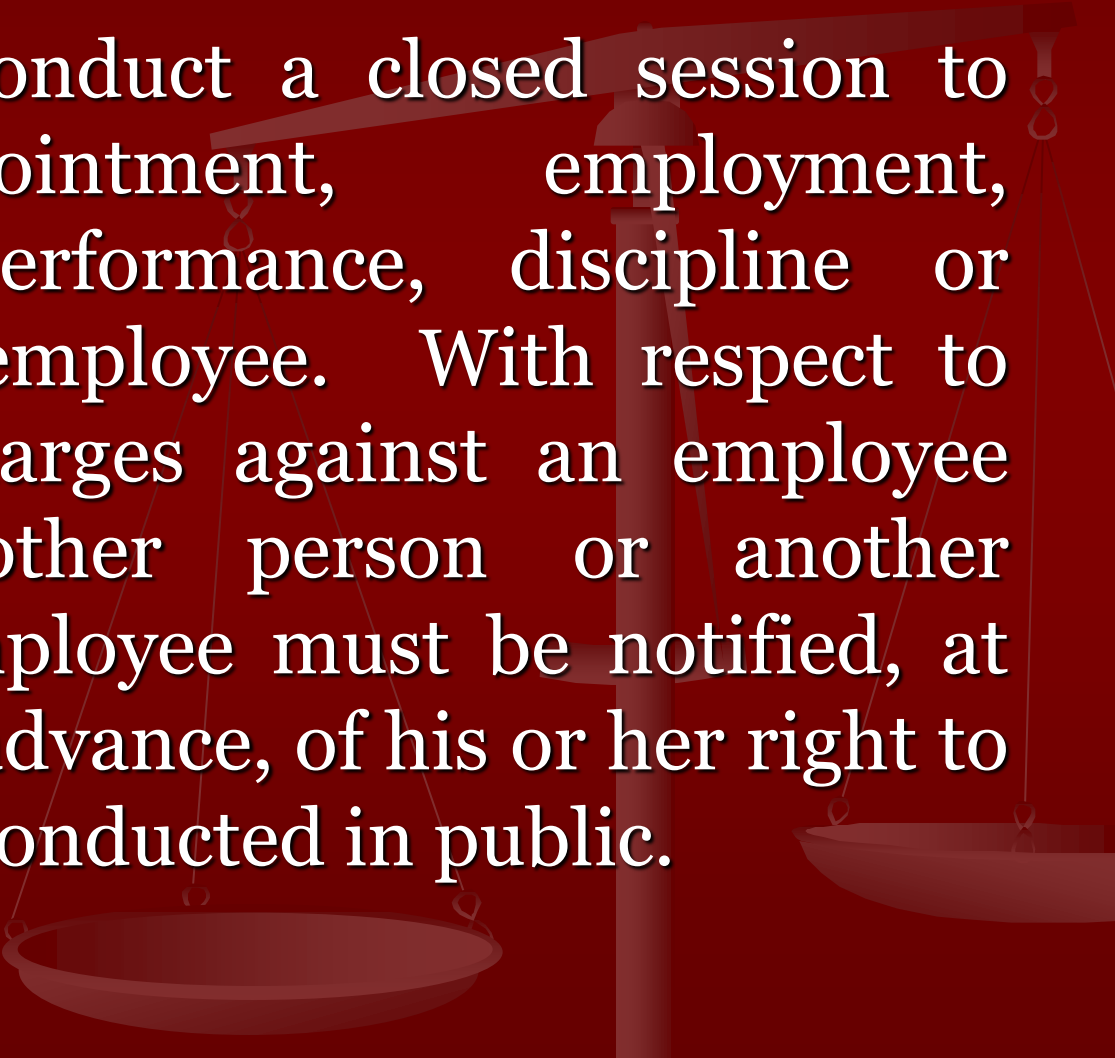
# Part 6

## Closed-Session Meetings



# Personnel Exemption

The body may conduct a closed session to consider appointment, employment, evaluation of performance, discipline or dismissal of an employee. With respect to complaints or charges against an employee brought by another person or another employee, the employee must be notified, at least 24 hours in advance, of his or her right to have the hearing conducted in public.



# Public Security

A body may meet with law enforcement or security personnel concerning the security of public buildings and services.



# Pending Litigation

A body may meet in closed session to receive advice from its legal counsel concerning existing litigation, initiating litigation, or situations involving a significant exposure to litigation.



# Labor Negotiations

A body may meet in closed session with its negotiator to consider labor negotiations with represented and unrepresented employees.



# Real Property Negotiations

A body may meet in closed session with its negotiator to consider price and terms of payment in connection with the purchase, sale, exchange or lease of real property.





# Part 7

## Remedies and Sanctions



# Civil Remedies

Individuals or the district attorney may file civil lawsuits for injunctive, mandatory or declaratory relief, or to void action taken in violation of the Act. Attorneys' fees are available to prevailing plaintiffs.



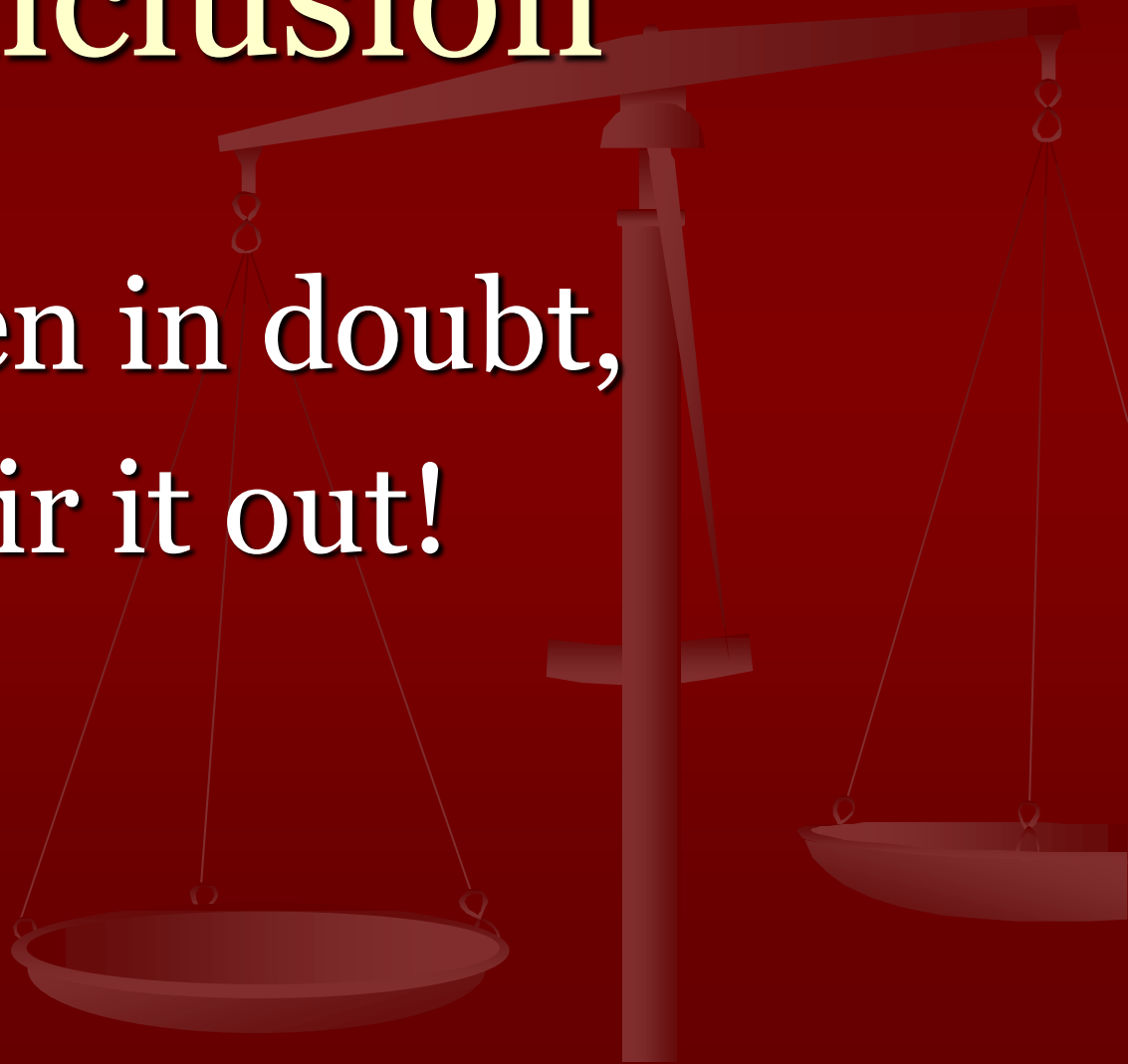
# Criminal Sanctions

The district attorney may seek misdemeanor penalties against a member of a body who attends a meeting where action is taken in violation of the Act, and where the member intended to deprive the public of information which the member knew or has reason to know the public was entitled to receive.

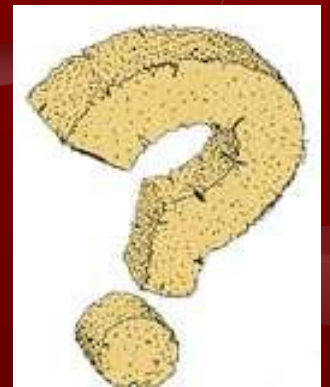


# Conclusion

When in doubt,  
air it out!



# Questions?



# THE BROWN ACT

OPEN MEETINGS FOR  
LOCAL LEGISLATIVE BODIES



2003

CALIFORNIA ATTORNEY  
GENERAL'S OFFICE

<http://ag.ca.gov/publications/brownAct2003.pdf>